

JOHNATHAN McFARLAND,)
)
 Plaintiff,)
)
 v.) No. 4:12CV727 CDP
)
 UNITED PARCEL SERVICE,)
)
 Defendant.)

This matter is before me on plaintiff's response to my show cause order directing him to explain why this action should not be dismissed as time-barred. Plaintiff has not presented any legal argument showing that the action is not barred by the limitations period. As a result, I will dismiss this action without prejudice.

Plaintiff brings this action under Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e, *et seq.*, for alleged employment discrimination. Plaintiff has

submitted a copy of his right to sue letter; the right to sue letter was mailed to plaintiff on January 8, 2008. Plaintiff filed this lawsuit on April 23, 2012.

A plaintiff in a Title VII action has ninety days from receipt of the right to sue letter to file a civil action. 42 U.S.C. § 2000e-5(f). Failure to file a timely civil action warrants dismissal of the complaint. E.g., Braxton v. Bi-State Development Agency, 728 F.2d 1105, 1108 (8th Cir. 1984).

The ninety-day period in this case elapsed four years ago. As a result, this action is barred by the limitations period.


Accordingly,

IT IS HEREBY ORDERED that this action is **DISMISSED** without prejudice to refiling as a fully-paid case.

IT IS FURTHER ORDERED that plaintiff's motion for appointment of counsel [Doc. 4] is **DENIED** as moot.

An Order of Dismissal will accompany this Memorandum and Order.

Dated this 8th day of June, 2012.



CATHERINE D. PERRY
UNITED STATES DISTRICT JUDGE